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Memorandum by the Lord Chancellor respecting Goods on British Ships destined for the Boer Republics.

I HAVE no doubt that carrying goods in a British ship to the enemy's country is absolutely illegal. Upon a declaration of war, or the existence of a state of war, all commercial correspondence, intercourse, and dealing between the subjects of the two countries is absolutely interdicted. War puts an end at once to all dealings and all communications with each other, and places each individual of the respective Governments, as well as the Governments themselves, in a state of hostility.

Whatever doubts may exist generally in the rules of international law, this proposition is, so far as I am aware, absolutely and uniformly established by all writers of authority.

In the great case of "The Hoop" (Robinson, 196), in a most learned judgment by Lord Stowell, and including a review of all the cases which up to that time had occurred, he points out that it is not a principle peculiar to the maritime law of this country.

It is laid down by Bynkershoek as an universal principle of law: "Ex naturâ belli commercia inter hostes cessare non est dubitandum." Lord Stowell says:—

There was, in his judgment, the rule that in no degree arises from the transaction being upon the water, but from principles of public policy and of public law, which are just as weighty on the one element as on the other; and cases had happened more frequently upon the water merely in consequence of the insular situation of this country. How strictly and uniformly this rule has been acted upon in condemning both ship and cargo is very well illustrated by the case itself.

This question, of course, has no relation to neutrals or to the question of what is or is not contraband of war, but simply relates to the trading with the enemy by British subjects, which is as illegal upon the declaration or existence of war as if it had been prohibited by Statute. (See the judgment of the Exchequer Chamber, *Exposito* v. *Bowden*, 7 Ell. and Bl., p. 778).

(Signed) HALSBURY.

House of Lords, November 2, 1899.

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